THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.26414 of 2006

03.1.2007

Between:

Putti Peda Subbaiah, S/o.Ramaiah

... Petitioner

AND

The Mandal Revenue Officer, Bhadrachalam Mandal
And others

... Respondents

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WRIT PETITION No.26414 of 2006

ORDER:

The petitioner allegedly purchased the land admeasuring Acs.7.06 guntas in survey No.74 (old survey No.17) of Purushothampatnam village of Bhadrachalam Mandal in Khammam District under an agreement of sale. He applied for ryotwari patta under A.P. (Schedule Areas Ryotwari Settlement) Regulation, 1970. The petitioner was unsuccessful in getting a patta before original authority, appellate authority as well as revisional authority. However, he statedly is continuing in possession of the property. It is alleged that on 27.11.2006 respondents 1 and 3 started action for recovery of possession by use of force. Hence, he seeks a writ of Mandamus declaring the action of respondents 1 and 3 as illegal and for a consequential direction to the respondents not to interfere with the possession without due process of law.

At the stage of admission itself, a counter affidavit is filed. While denying the allegation that respondents are trying to dispossess the petitioner and demolish the houses on 27.11.2006, the Executive Officer of the third respondent taken up steps and that the third respondent filed O.A.No.32 of 1963, before the Deputy Commissioner, for eviction of the petitioner. A certificate was granted on 03.3.1965 for eviction of the petitioner and even before necessary action could be taken, apprehending dispossession, petitioner filed the present writ petition.

Heard learned Counsel for the petitioner and learned Government Pleader for Endowments. Recently, by a common order dated 20.12.2006, this Court disposed of a batch of similar writ petitions, being W.P.Nos.25154, 25155 and 25175 of 2006, in somewhat similar circumstances. However, in this case, third

respondent has already obtained an order of injunction alleging the petitioner to be encroacher. Even when O.A.No.32 of 1963 filed for eviction of the petitioner is pending before the Deputy Commissioner, the procedure contemplated under Section 84 of the A.P. Charitable and Hindu Religious Institutions & Endowments Act, 1987 (the Endowments Act, for short) has to be followed. Therefore, this Court observes that unless and until appropriate action is taken, the petitioner's right to enjoy the land encroached upon cannot be denied by resorting to highhanded action.

Giving liberty to the third respondent to take action under Section 84(1) of the Endowments Act, the writ petition with the above observations is accordingly disposed of. No costs.

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(**V.V.S.RAO,J**)

January 03, 2007.
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